IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

OP.No. 14479 of 1998(W)

PETITIONER:

K.A. ANDREW, S/O. ALPHONSE MORRIS,
AGED 44 YEARS, LECTURER IN CHARGE OF THE
PRINCIPAL, KARMALA RANI TRAINING COLLEGE,
KOLLAM.

BY ADV. SRI.V.A.MOHAMMED.

RESPONDENTS:
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1. **THE SECRETARY TO GOVERNMENT,**
   HIGHER EDUCATION DEPARTMENT,
   SECRETARIAT,
   TRIVANDRUM.

2. **THE DIRECTOR OF COLLEGIATE EDUCATION,**
   TRIVANDRUM.

3. **THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,**
   KOLLAM.

BY SR. GOVERNMENT PLEADER SRI. R. LAKSHMI NARAYAN.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 30/10/2007,ALONG WITH O.P NOS. 24481/1998,19090/1998 & 5396/1999,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 25579/1998 IN O.P. NO. 14479/1998-W

DISMISSED

SD/- K. BALAKRISHNAN NAIR, JUDGE.

30/10/2007. **SD/- T.R.RAMACHANDRAN NAIR, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER NO. AC.FI3/2790/97 OF THE UNIVERSITY OF KERALA DTD. 08/06/1998.

EXT.P.2: COPY OF THE SALARY BILL OF THE TEACHING STAFF FOR THE MONTH OF JUNE, 1998 DTD. NIL.

EXT.P.3: COPY OF THE OBJECTION RAISED BY THE R.3. DTD. 29/06/1998.

EXT.P.4: COPY OF THE JUDGMENT IN O.P. NO. 14636/1996 OF THIS HONOURABLE COURT DTD. 08/08/1997.

RESPONDENT'S EXHIBITS: **NIL.**

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

O.P. NOS. 14479, 19090 & 24481/1998

AND 5396/1999

Dated 30th October, 2007.

JUDGMENT

Balakrishnan Nair, J.

O.P.No.19090/1998:

The petitioners who are Lecturers, in various subjects, of the 6th respondent's College were promoted to the post of Selection Grade Lecturer. The said promotion was approved by the University by Ext.P2 order. When the Principal moved for drawing salary for them, the same was objected by the Deputy Director of Collegiate Education, stating that further clarification is necessary from the Government. So, the petitioners approached this Court,contending that for making promotions to the vacancies in sanctioned posts, the sanction of the Deputy Director or the Government is not necessary. It was also contended that once the promotion is approved by the University, the Government or its officers cannot sit in appeal or dishonour the bills presented on behalf of the

incumbents. It was also pointed out that if the Deputy Director or the Government have any objection regarding the approval granted by the University, their remedy is to move the University itself and seek to recall those orders. On the above grounds, the petitioners sought payment of salary to them in the promoted posts.

2. The Government have filed a counter affidavit, resisting the prayers in the Original Petition. According to the Government, for filling up even the vacancies in sanctioned posts, either by direct recruitment or by promotion, sanction of the Deputy Director of Collegiate Education is necessary. This is necessary to safeguard the interest of the public exchequer, as the salary is paid by the Government. The State has gone to the extent of challenging the authority of the University to grant approval to the promotions made.

3. The point raised by the petitioners is covered in their favour by the decision of the Division Bench of this Court in **Shalini Rachel v. Manager, Christian College** [2007(3) KLT 355]. We are in respectful agreement with the views of the Division Bench in the said decision. In the result, the Original Petition is allowed. The respondents 1 to 3 are directed to honour the salary bills of the petitioners presented on their behalf, in the light of

Ext.P2 order. The payments made to the petitioners pursuant to the interim orders shall be treated as regular payments.

O.P.Nos.14479 & 24481/1998 & 5396/1999:

4. The case of the petitioners in these Original Petitions is similar to the case of the petitioners in O.P.No.19090/1998. Accordingly, it is declared that the petitioners are entitled to draw salary in the promoted post, as those promotions have the approval of the University. Any orders passed infringing their rights in this regard shall stand quashed. The Original Petitions are allowed as above.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

O.P. NOS.14479, 19090 &

24481/1998 & 5396/1999

JUDGMENT

30.10.2007